

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FINLEY B. FULTZ,

No. 2:21-cv-01254-CKD P

Petitioner,

v.

STATE OF CALIFORNIA,

ORDER TO SHOW CAUSE

Respondent.

Petitioner is a state pretrial detainee who is proceeding pro se in this habeas corpus action filed pursuant to 28 U.S.C. § 2254. In his habeas application, petitioner challenges his ongoing custody following the dismissal of criminal charges against him on December 20, 2018 by the Nevada County Superior Court. Petitioner further indicates that there is a pending criminal appeal of his case in the California Court of Appeal. ECF No. 1 at 4.

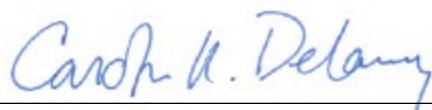
Petitioner is advised that federal courts cannot interfere with pending state criminal proceedings absent extraordinary circumstances which create a threat of irreparable injury. Younger v. Harris, 401 U.S. 37, 45-46 (1971). Abstention is required when: (1) state proceedings, judicial in nature, are pending; (2) the state proceedings involve important state interests; and (3) the state proceedings afford adequate opportunity to raise the constitutional issues. Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432 (1982); Dubinka v. Judges of the Superior Court, 23 F.3d 218, 223 (9th Cir. 1994); Kenneally v. Lungren,

1 967 F.2d 329, 331–32 (9th Cir. 1992). If all three of these factors are met, the federal court must
2 abstain from ruling on the issues and dismiss the federal action without prejudice, unless there are
3 extraordinary or special circumstances which pose an immediate threat of irreparable injury. See
4 Kenneally, 967 F.2d at 331; Perez v. Ledesma, 401 U.S. 82, 85 (1971) (limiting “extraordinary
5 circumstances” to those cases involving harassment by state officials, prosecutions undertaken “in
6 bad faith that have no hope of obtaining a valid conviction,” or where “irreparable injury can be
7 shown.”). In light of the Younger abstention doctrine, petitioner will be required to show cause
8 within 21 days from the date of this order why federal court intervention in his pending state
9 criminal prosecution is appropriate.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Petitioner’s motion to proceed in forma pauperis (ECF No. 6) is granted.
12 2. Within 21 days from the date of this order, petitioner is directed to show cause why
13 this case should not be summarily dismissed based on the Younger abstention
14 doctrine.
15 3. Petitioner’s failure to respond to this court order will result in a recommendation that
16 this case be dismissed.

17 Dated: April 5, 2022



18 CAROLYN K. DELANEY
19 UNITED STATES MAGISTRATE JUDGE